

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
EL PASO DIVISION**

<b>IN RE:</b> <b>JESUS PINEDA and</b> <b>ERICA PINEDA,</b>  <b>DEBTORS.</b>	§ § § § §	<b>CASE NO. 20-30021-hmc</b>  <b>CHAPTER 13</b>
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**MOTION TO EXPEDITE HEARING DATE ON DEBTORS' MOTION FOR EXTENSION  
AND/OR IMPOSITION OF AUTOMATIC STAY UNDER § 362**

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**TO THE HONORABLE H. CHRISTOPHER MOTT, U.S. BANKRUPTCY JUDGE:**

COME NOW JESUS PINEDA and ERICA PINEDA, the Debtors in the above-captioned proceeding (hereinafter referred to as "Debtors"), by and through the undersigned counsel, and pursuant to L. Rule 9014(d)(4), hereby respectfully make and file this "Motion To Expedite Hearing Date on Debtors' Motion For Extension and/or Imposition Of Automatic Stay Under § 362" (hereinafter referred to as "Motion"), and in support thereof would respectfully show the Court as follows:

**A. FACTUAL AND PROCEDURAL BACKGROUND.**

1. On October 10, 2007, Debtors executed a Non-Recourse Home Equity Lien Note with Evolve Federal Credit Union (hereinafter referred to as "EVOLVE") in the amount of \$74,800.00 for real property commonly known as 933 Saint Laurent, El Paso, Texas (hereinafter referred to as the "Property"). (DOC# 111-1).

2. On or about March 17, 2017, the Debtors executed a "Promissory Note" with Ovation Services LLC as Agent for FGMS Holdings LLC (hereinafter referred to as "OVATION") for a principal amount of \$27,051.40 on the Property. (CLAIM# 19, Exhibit 1).

3. On January 7, 2020, the Debtors filed an Emergency Voluntary Chapter 13

Petition. (DOC# 1, pages 21-97).

4. On December 3, 2020, Debtors filed their Fourth Amended Chapter 13 Plan where EVOLVE is listed as a Creditor to be paid directly by Debtors outside of the Chapter 13 Plan, and OVATION is listed as a senior lienholder on the Property to be paid through the Chapter 13 Plan. (DOC# 75, Page 4, Section 7.5 and Page 6, Section 7.8).

5. On January 14, 2021, the Court confirmed the Debtors Fourth Amended Chapter 13 Plan (hereinafter referred to as the “Plan”). (DOC# 83).

6. On September 16, 2021, this Court issued an Agreed Order ordering the payment of **\$136,985.92** to the Chapter 13 Trustee by Oak Street Funding LLC and Allstate Insurance Co. (DOC# 157).

7. On October 16, 2021, an “Agreed Order Resolving Ovation Services LLC As Agent For FGMS Holdings LLC’s Motion For Relief From Automatic Stay Against Real Property and Waiver of Thirty (30) Day Hearing Requirement (Dkt. No, 114)” (“Agreed Order”) was filed. (DOC #162).

8. On January 12, 2022, OVATION filed a “Notice of Termination of Automatic Stay” (“Notice of Termination”), for a period of one year, therein claiming that (a) the Debtors had breached the terms of Agreed Order in that the “Debtor has failed to pay the Chapter 13 Trustee”, and (b) Debtors did not cure the default within the 10-day deadline that commenced from a Notice of Default letter that OVATION claims was mailed to undersigned and to the Debtors on December 8, 2021. (DOC #172).

9. As a result of OVATION’s Notice of Termination, on January 13, 2022, EVOLVE filed its “Motion Of Evolve Federal Credit Union For Relief From Stay Against Property Of The Estate And Waiver Of 30-Day Requirement” (“EVOLVE’s Motion”), therein

claiming that (a) EVOLVE is not adequately protected because the automatic stay has been terminated on the Property in favor of a senior lienholder OVATION, (b) EVOLVE is at risk that its lien may be eliminated if the senior lienholder forecloses its lien on the Property, and (c) EVOLVE should be granted relief from stay to schedule its own foreclosure sale. (DOC #173).

10. On January 27, 2022, Debtor filed a “Response To Motion Of Evolve Federal Credit Union For Relief From Stay Against Property Of The Estate And Waiver Of 30-Day Requirement” (“Response”), which is hereby incorporated by reference herein, for all intents and purposes. (DOC #176).

11. The Hearing on the “Motion Of Evolve Federal Credit Union For Relief From Stay Against Property Of The Estate And Waiver Of 30-Day Requirement” has been reset for April 13, 2022, at 1:30pm.

12. On this date, Debtors filed their “Motion For Extension and/or Imposition Of Automatic Stay Under § 362” (hereinafter referred to as the “Motion To Impose Stay”) requesting an Order imposing and/or extending the §362 Automatic Stay against OVATION and EVOLVE, through March of 2023. (DOC# 186).

13. Therefore, Debtors hereby move the Court to expedite the hearing date on the Debtors’ Motion For Extension and/or Imposition Of Automatic Stay Under § 362, and set the hearing for April 13, 2022, at 1:30 pm (MST), so as to coincide with the hearing on other relevant motions herein.

## **B. ARGUMENT AND AUTHORITIES.**

14. Good cause exists under L. Rule 9014(e) for the granting of an expedited hearing, as (a) OVATION’s Notice of Termination was improperly issued and filed, and (b) OVATION

has improperly refused the Trustee's offer of payment of *"all outstanding amounts owed to Ovation under the Plan."*

15. Granting of the Order is needed as soon as possible to impose and/or extend the §362 Automatic Stay against OVATION and EVOLVE, through March of 2023.

**WHEREFORE, ALL PREMISES CONSIDERED**, and for the foregoing reasons, Debtors pray that the Court grant the Motion to Expedite Hearing Date on Debtors' Motion For Extension and/or Imposition Of Automatic Stay Under § 362.

Date: April 7, 2022

Respectfully submitted,

**THE NEVAREZ LAW FIRM, PC**  
A Professional Corporation  
7362 Remcon Circle  
El Paso, Texas 79912  
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/s/ Michael R. Nevarez  
By: **MICHAEL R. NEVAREZ**  
State of Texas Bar No. 14933400

Attorney for Debtors

**CERTIFICATE OF CONFERENCE**

In accordance with L. Rule 9014(e), I hereby certify that, on April 7, 2022, the undersigned conferred via email with Ms. Mary Elizabeth Heard, Attorney for OVATION, as to whether or not OVATION would oppose the foregoing **MOTION TO EXPEDITE HEARING DATE ON DEBTORS' MOTION FOR EXTENSION AND/OR IMPOSITION OF AUTOMATIC STAY UNDER § 362**, and the undersigned:

☐ Was notified OVATION DOES NOT oppose the above.

☐ Was notified OVATION DOES oppose the above.

☒ Received no response. (See Attached Exhibit A).

/s/ Michael R. Nevarez

**MICHAEL R. NEVAREZ**

**CERTIFICATE OF CONFERENCE**

In accordance with L. Rule 9014(e), I hereby certify that, on April 7, 2022, the undersigned conferred via email with Mr. James W. Brewer, Attorney for EVOLVE, as to whether or not EVOLVE would oppose the foregoing **MOTION TO EXPEDITE HEARING DATE ON DEBTORS' MOTION FOR EXTENSION AND/OR IMPOSITION OF AUTOMATIC STAY UNDER § 362**, and the undersigned:

☒ Was notified EVOLVE DOES NOT oppose the above. (See Attached Exhibit B).

☐ Was notified EVOLVE DOES oppose the above.

☐ Received no response.

/s/ Michael R. Nevarez

**MICHAEL R. NEVAREZ**

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing **MOTION TO EXPEDITE HEARING DATE ON DEBTORS' MOTION FOR EXTENSION AND/OR IMPOSITION OF AUTOMATIC STAY UNDER § 362** was served either by electronic means as listed on the Court's CM/ECF filing and noticing system, and/or by regular first class mail, postage prepaid, to all creditors listed on the Debtors' creditor's matrix, and to the following parties in interest, on or before April 7, 2022:

**COUNSEL FOR OVATION:**

Mary Elizabeth Heard  
M. E. Heard, Attorney, PLLC  
100 NE Loop 410. Ste. 605  
San Antonio, Texas 78216  
Email: [meheard@heardlawfirm.net](mailto:meheard@heardlawfirm.net)

**COUNSEL FOR CREDITOR:**

James W. Brewer  
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P.O. Box 2800  
El Paso, Texas 79999-2800  
Email: [jbrewer@kempsmith.com](mailto:jbrewer@kempsmith.com)

**TRUSTEE:**

Stuart C. Cox  
1760 N. Lee Trevino Dr.  
El Paso, Texas 79936

**DEBTORS:**

Jesus Pineda  
Erica Pineda  
933 Saint Laurent  
El Paso, TX 79907

/s/ Michael R. Nevarez  
**MICHAEL R. NEVAREZ**

Jesus Pineda  
933 Saint Laurent  
El Paso, TX 79907

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Erica Yvette Pineda  
933 Saint Laurent  
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Stuart C. Cox  
Chapter 13 Trustee  
1760 N. Lee Trevino Dr.  
El Paso, TX 79936

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Albert Elli Law  
2201 West Royal Lane, Ste. 155  
Irving, TX 75063

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Credit Central  
Attn: Bankruptcy Dept  
700 E North St., Ste. 15  
Greenville, SC 29601

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700 E North St., Ste. 15  
Greenville, SC 29601

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Del Sol Medical Center  
c/o Resurgent Capital Services  
P.O. Box 1927  
Greenville, SC 29602

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DIRECTV, LLC  
c/o American InfoSource as agent  
P.O. Box 5008  
Carol Stream, IL 60197-5008

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DIRECTV, LLC  
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4515 N. Santa Fe Ave  
Oklahoma City, OK 73118

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Evolve Federal Credit Union  
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FirstLight Federal Credit Union  
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Home Depot Card  
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Internal Revenue Service

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700 E. San Antonio  
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Jacob Pineda  
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James W. Brewer  
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Jefferson Capital Systems, LLC  
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Saint Cloud, MN 56302-9617

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Saint Cloud, MN 56302-9617

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Mimco  
6500 Montana Ave.

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Oak Street Funding LLC  
c/o Jeff Carruth  
WEYCER, KAPLAN, PULASKI  
& ZUBER, P.C.  
24 Greenway Plaza, Suite 2050  
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OneMain Financial  
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Evansville, IN 47731

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Ovation Services, LLC  
c/o Mary Elizabeth Heard  
M.E. Heard, Attorney, PLLC  
100 N.E. Loop 410, Ste. 605  
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Regional Finance  
8720 Alameda Avenue  
El Paso, TX 79907

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Syncb/Car Care T3  
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Orlando, FL 32896

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Synchrony Bank/Care Credit  
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Orlando, FL 32896

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Tax Assessor/Collector  
P.O. Box 2992  
El Paso, TX 79902

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P.O. Box 2992  
El Paso, TX 79902

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P.O. Box 2992  
El Paso, TX 79902

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Tea Olive, LLC  
P.O.Box 1931  
Burlingame, CA 94011

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**Wells Fargo Home Mortgage**  
**c/o Philip S. Traynor**  
**Albertelli Law**  
**2201 W. Royal Ln., Ste. 155**  
**Irving, TX 75063**

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